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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DANIEL T. LASCHOB,ER,

Case No.: 3:22-cv-01373-IM

Plaintiff,

v.

DEFENDANTS' THIRD UNOPPOSED
MOTION FOR AN EXTENTION OF TIME
TO RESPOND TO THE COMPLAINT

MIGUEL A. CARDONA, et al.

Defendants.

LOCAL RULE 7-1 CERTIFICATION

Pursuant to Local Rule 7-1, the undersigned certifies that counsel for Defendants has conferred with Plaintiff, appearing *pro se*, and he does not object to the requested extension of Defendants' time to respond to the Complaint.

MOTION

Defendants respectfully request that the Court extend their January 20, 2023 deadline to respond to the operative complaint by 30 days, to February 21, 2023. Good cause exists to grant this motion, as set forth below.

1. Plaintiff, proceeding pro se, filed his Complaint on September 12, 2022, challenging the Secretary of Education's student loan forgiveness plan. ECF No. 1.

2. The student loan program challenged in this lawsuit has been enjoined and vacated on a nationwide basis since November 11, 2022. *See Nebraska, et al. v. Joseph Biden Jr., et al.*, No. 22-3179 (8th Cir. Nov. 14, 2022) (granting Plaintiffs' Motion for an emergency injunction pending appeal); *Brown, et al. v. U.S. Dep't of Education, et al.*, Civ. A. No. 22-908 (N.D. Tex. Nov. 11, 2022), ECF Nos. 37 & 38 (entering summary judgment for Plaintiffs and vacating the program).

3. On November 17, 2022, Defendants filed their first unopposed motion for an extension of time to respond to the Complaint to enable the parties to monitor appellate proceedings in *Nebraska* and *Brown* and their impact on this litigation. The Court granted the motion on November 18, 2022, extending the deadline to respond to the Complaint until December 21, 2022.

4. Shortly thereafter, the Supreme Court granted certiorari in both cases. *Nebraska v. Biden*, No. 22-506, 2022 WL 17348754 (U.S. Dec. 1, 2022) and *Brown v. U.S. Dep't of Education*, No. 22-535, 2022 WL 17574107 (U.S. Dec. 12, 2022). In both cases, the Supreme Court has indicated that it will hear argument this term on the merits of the plaintiffs' statutory-authority claims.

5. On December 20, 2022, based on Plaintiff's stated intention to file a supplemental pleading, Defendants filed their second unopposed motion for an extension of time to allow them to file a single consolidated response to all of Plaintiff's claims. The Court granted the motion on December 21, 2022, extending the deadline to respond to the Complaint until January 20, 2023.

6. On January 18, 2023, Plaintiff filed his Motion for Leave to File a Supplemental Pleading; Defendants consented to the motion as to the relief sought. ECF No. 11.

7. Defendants seek a 30-day extension of their current January 20 deadline to respond to the Complaint and respectfully submit that the requested extension would promote efficiency and judicial economy. Plaintiff has indicated in his Motion for Leave to File a Supplemental Pleading that he seeks to add one or more new claims challenging actions that post-date the filing of the Complaint. Assuming that the Court grants that motion, the requested extension would allow Defendants to file one consolidated response to all of Plaintiff's claims in a response to the Supplemental Complaint. The extension also would not prejudice Plaintiff because the agency action challenged in this lawsuit is currently enjoined and vacated. That action will have no impact on Plaintiff while the orders in *Nebraska* and *Brown* remain in effect, and, as explained above, Defendants expect the Supreme Court to consider this term the merits of the statutory-authority claim Plaintiff has presented.

8. Plaintiff consents to the requested extension.

9. For the foregoing reasons, Defendants respectfully request that the Court enter an order extending their deadline to respond to the operative complaint by 30 days, until February 21, 2023.

Dated: January 19, 2023

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Branch Director

/s/ Samuel Rebo
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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically serve a copy to all counsel of record; I also sent the foregoing to Plaintiff by electronic mail at the following address: LVC_complaint@outlook.com.

/s/ Samuel Rebo
SAMUEL REBO